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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/160,604	09/25/1998	HITOSHI HASHIMOTO	980624/LH	6549

7590 05/22/2003

FRISHAUF HOLTZ GOODMAN LANGER & CHICK
767 THIRD AVENUE
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NEW YORK, NY 100172023

EXAMINER

VU, NGOC YEN T

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 05/22/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/160,604

Applicant(s)

Hitoshi HASHIMOTO

Examiner

Ngoc-Yen Vu

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 28, 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) 2, 3, and 5-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4, and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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Election/Restriction

1. Applicant's election without traverse of the third species, figure 7, in Paper No. 4 is acknowledged. The Applicant is reminded that upon the allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The amendments, filed 04/28/2003, have been entered and made of record. Claims 1, 4 and 16-20 are examined in this Office action.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Parulski et al. (US #5,563,658).

Regarding claim 1, Parulski '658 teaches an auto-focusing apparatus comprising an image pickup section (Figs. 1-2, image sensor 20) which has an imaging plane on which a subject image is formed, and generates an image signal (col. 4 lines 28-64); a focusing section (Fig. 1, processor section 35) for selectively executing an ordinary mode of reading an image signal from an entire imaging plane of said image pickup section and performing focusing at an ordinary frame rate (col. 5 lines 18-27), and a high speed mode ("fast flush focus mode") of reading an image signal from a predetermined portion (Fig. 3, center region 66) of the imaging plane of said image pickup section and performing focusing at a high speed frame rate (col. 4 line 65 - col. 5 line 17; col. 5 line 28 - col. 6 line 23).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 4, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski '658 in view of Suda et al. (US #6,088,060).

As to claim 4, Parulski '658 teaches that the focusing section operates in the high speed mode first (col. 5 line 28 - col. 6 line 23). Claim 4 differs from Parulski '658 in that the claim further requires the focusing section operates in the ordinary mode when an in-focus state cannot be set in the high speed mode. The limitation is well known in the art as shown in Suda '060. In the same field of endeavor, Suda teaches an auto-focusing apparatus comprising an image pickup section and a focusing section (see Figs. 6, 8 and 10). Suda further teaches that focus detecting area can be selectively set according to the focus evaluating values of each focus detecting area (see Figs. 7 & 9). In light of the teaching from Suda, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the focusing device taught in Parulski to operate in the ordinary mode when an in-focus state cannot be set in the high speed mode to as to provide a focusing device having high degrees of accuracy and reliability.

As to claim 16, Parulski '658 teaches that the focusing section includes a processor (focus determination circuit 56 and control interface processor 52) which determines an in-focus state by checking after the high speed mode whether a peak value of auto-focusing evaluation values is detected (Fig. 6, col. 4 line 65 - col. 5 line 17; col. 5 line 28 - col. 6 line 23).

As to claim 17, Parulski '658 teaches that the focusing section executes the high speed mode in response to a first release operation (capture button 16) (col. 5 line 28 - col. 6 line 23).

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6. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski '658 in view of Suda '060, and further in view of Toji (US #5,694,168).

As to claims **18-19**, the claims differ from Parulski and Suda in that they further require that when the focusing section determines whether the first release operation is canceled when the in-focus stat is determined, the focusing section executes an auto-exposure when the first release is canceled and determines whether a second release operation is performed when the first release operation is not canceled. However, it is well known in the art to execute an auto-exposure process when the in-focus state has been determined, as taught in Toji '168 (see col. 7 lines 11-65). In light of the teaching from Toji, it would have been obvious to one of ordinary skill in the art at the time the invention was made to execute an auto-exposure process when the in-focus state is determined so as to assure that judgement of a peak focus value is not influenced by a brightness of an object, thus providing a reliable focusing apparatus.

As to claim **20**, Parulski '658 teaches that the focusing section executes an image pickup processing (col. 3 line 55 - col. 4 line 28).

Conclusion

7. **Any response to this office action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

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, (703) 872-9314, (for formal communications intended for entry)
(for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington.
VA., Sixth Floor (Receptionist).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Ngoc-Yen Vu** whose telephone number is (703) 305-4946. The examiner can normally be reached on Mon - Fri from 8 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wendy Garber**, can be reached on (703) 305-4929.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

NYV
05/19/2003


NGOC-YEN VU
PRIMARY EXAMINER